

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOVAN VAVIC,

Defendant.

CRIMINAL NO.: 19-CR-10081-IT-MPK

**DEFENDANT'S MOTION FOR RETURN OF DEFENDANT'S PASSPORT IN THE
CUSTODY OF THE CLERK AND COURT**

Defendant Jovan Vavic, by and through his counsel of record, Stephen G. Larson and Paul A. Rigali of Larson LLP, and Irwin B. Schwartz of BLA Schwartz, PC, respectfully requests this Court enter an order to return Mr. Vavic's passport from the custody of the clerk and Court.

In support thereof, Mr. Vavic states as follows:

1. On March 5, 2019, a Grand Jury sitting in this District returned an Indictment charging Mr. Vavic and others. *See United States v. Gordon Ernst et al.*, 19-CR-10081-IT-MPK (“Docket”), Entry 1. On October 22, 2019, the government filed a Superseding Indictment. *See id.*, Entry 272. A Second Superseding Indictment was returned on September 1, 2020. *See id.*, Entry 505.

2. On March 25, 2019, U.S. Magistrate Judge Page Kelley set conditions for Mr. Vavic's release, which included a condition that Mr. Vavic not travel outside the United States and a condition that Mr. Vavic surrender his passport.

4. Mr. Vavic has, for four years, scrupulously complied with all pre-trial conditions and has always appeared as ordered both before and during the trial.

5. In addition, Mr. Vavic has applied for, and this Court has allowed, Mr. Vavic to travel internationally on several occasions, and Mr. Vavic has always complied with the Court's and the government's directives with respect to that travel, promptly returning his passport to pre-trial services after each trip. *See id.*, Entries 716, 771, 1408.

5. On September 15, 2022, after a jury trial, this Court granted Mr. Vavic's motion for a new trial. *See id.*, Entry 1405. Pursuant to an agreement between Mr. Vavic and the government and Order of the First Circuit, the government's appeal and Mr. Vavic's cross-appeal are stayed pending the outcome of other pending appeals related to the Varsity Blues investigation.

3. In light of Mr. Vavic's proven record of appearances in Court, compliance with all court orders, and commitment to proving his innocence, Mr. Vavic does not pose a flight risk. Mr. Vavic has strong ties to his home state of California; his wife and four children all reside in California, and Mr. Vavic intends to maintain his residence near his immediate family.

4. Mr. Vavic wishes to seek seasonal employment in Europe, conduct seasonal water polo training camps abroad, and provide emergency care for his elderly parents who live in Montenegro during the pendency of this matter without leave from the Court. During the pendency of this matter, Mr. Vavic is forced to seek temporary employment as a water polo coach abroad, and to do so, he requires the flexibility to travel to Europe to interview for the positions and to take on the seasonal employment position, should he be hired. Employment opportunities in the water polo industry move quickly, and Mr. Vavic requires the ability to travel on short notice to be competitive for these positions. In addition, over the past twenty-seven years, Mr. Vavic has conducted seasonal water polo training camps in Europe, and he wishes to depart the United States for Europe in June 2023 to conduct the same training camps.

Mr. Vavic also has elderly parents isolated in Montenegro, and he requires the ability to travel to care for their health in emergency situations.

5. Continuing to impose the travel restriction and passport condition on Mr. Vavic will unnecessarily consume court resources and impose a punitive burden on Mr. Vavic; it does not serve the interest of justice. As things currently stand, the Court must review and approve each travel request Mr. Vavic makes—this is an unnecessary use of scarce judicial resources because Mr. Vavic has proven that he will comply with all Court orders. Moreover, Mr. Vavic does not pose a flight risk; he has, on three prior occasions, traveled outside the country with his passport and returned without incident.

6. For the foregoing reasons, Mr. Vavic respectfully requests that this Court order the return of his passport and modify his conditions of pretrial release to allow him to travel internationally without prior approval.

6. Counsel for Mr. Vavic has conferred with Assistant United States Attorney Ian Stearns, who indicated that the government opposes the requested relief.

9. Counsel for Mr. Vavic has conferred with the United States Probation and Pretrial Services Office (USPPO), Officer Andrew Kessler-Cleary, who acknowledged “that there have been no issues related to Mr. Vavic’s prior international travel,” but stated that the USPPO will not take a position on Mr. Vavic’s request to modify the conditions of his pretrial release.

Dated: April 19, 2023

Respectfully submitted,

/s/ Stephen G. Larson

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Attorneys for Defendant JOVAN VAVIC

LOCAL RULE 7.1 CERTIFICATION

Undersigned counsel certifies that counsel for Mr. Vavic has conferred with counsel for the government, and that the government opposes Mr. Vavic's request for the return of his passport from the custody of the clerk and Court. As requested by the government, we attach their email containing their position on this matter. (Exhibit 1).

/s/ Stephen G. Larson
Stephen G. Larson

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 19, 2023.

/s/ Stephen G. Larson
Stephen G. Larson